

**COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT**  
**FOR**  
**(PURPOSE)**  
**BETWEEN**  
**U.S. ARMY ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING**  
**CENTER**  
**PICATINNY ARSENAL, NJ 07806-5000**  
**AND**  
**COMPANY**  
**COMPANY ADDRESS**

**COMPANY**

Company Contact  
Company Contact Title  
Company Contact Complete Address  
Company Contact Phone Number  
Company Contact Email

Company Financial Contact Name, Phone Number and Email

**U.S. ARMY ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING  
CENTER:**

Mr. Tim Ryan  
Office of Research and Technology Applications  
(973) 724-7953

Mr. John Moran  
Legal Counsel  
(973) 724-6590

<Name>  
Principal Investigator  
Principal Investigator's Phone Number  
Principal Investigator's Email:  
Principal Investigator's Financial Analyst Name and Phone Number:

The purpose of this AGREEMENT is to establish a cooperative effort between the U.S. Army Armament Research, Development and Engineering Center (ARDEC) and COMPANY (COMPANY) in order to develop X technology. (*Short description of CRADA.*) This work falls within the mission of ARDEC.

NTIS Category: \_\_\_\_\_

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BETWEEN  
U.S. ARMY ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING  
CENTER  
PICATINNY ARSENAL, NJ 07806-5000  
AND  
COMPANY  
COMPANY ADDRESS**

The parties to this Cooperative Research and Development Agreement (AGREEMENT), authorized under Public Law 99-502, as amended, and Executive Order 12591 (10 April 1987) are COMPANY (COMPANY), incorporated in the State of \_\_\_\_\_ and the U.S. Army Armament Research, Development and Engineering Center (ARDEC), a laboratory of the United States Army.

A. Whereas, ARDEC has developed *<describe the intellectual property, expertise, facilities and equipment>*, hereinafter referred to as "the Technology", as part of its mission; and

B. Whereas, COMPANY wishes to utilize the Technology to develop or improve a new or existing product, process or service for commercial purposes and to improve the position of the U.S. economy in world trade; and

--OR--

B. Whereas, COMPANY and ARDEC desire to collaborate in the further advancement of the Technology which has commercial application to \_\_\_\_\_ and military application to \_\_\_\_\_; and

C. Whereas, the use by COMPANY of ARDEC Technology will benefit the ARDEC mission.

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**Article 1. Definitions**

As used in this AGREEMENT, the following terms shall have the following meanings and such meanings should be equally applicable to both the singular and plural forms of the terms defined

1.1 "Agreement" means this Cooperative Research and Development Agreement (CRADA).

1.2 "Invention" means any invention or discovery which is or may be patentable under Title 35 of the United States Code or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 7321 et seq.).

1.3 "Made" in relation to any invention means the conception or first actual reduction to practice of such invention.

1.4 "Proprietary Information" means information that embodies trade secrets developed at private expense prior to or independent of this AGREEMENT or information which is confidential business or financial information provided that such information:

(i) is not generally known or available from other sources without obligations concerning its confidentiality;

(ii) has not been made available by the owners to others without obligation concerning its confidentiality; and

(iii) is not already available to the Government without obligation concerning its confidentiality.

1.5 "Nonreleasable ARDEC information" shall mean any information marked by ARDEC as "Nonreleasable ARDEC information." "Nonreleasable ARDEC information" may include, but is not limited to: any operational security information (OPSEC), limited distribution information, financial data, advanced procurement information (e.g., future requirements, statements of work, and acquisition strategies), source selection information (e.g., bids before made public, source selection plans, and rankings of proposals), trade secrets and other confidential business information (e.g., confidential business information submitted by a contractor), attorney work product, information protected by the Privacy Act (e.g., social security numbers, home addresses and telephone numbers), and other sensitive information (e.g., program, planning and budgeting system information).

1.6 "Data" means recorded information of technical or scientific nature regardless of medium of recorded.

1.7 "Subject Data" means all recorded information first produced in the performance of this AGREEMENT.

1.8 "Subject Invention" means any invention made in the performance of work under this AGREEMENT.

1.9 "Subject Software" means all software, software databases or software documentation whether or not patentable, that is first produced in the performance of this AGREEMENT.

1.10 "Subject Improvement" means any Invention improvement first made in the performance of this AGREEMENT .

1.11 "Government License" means non-exclusive, irrevocable, paid-up license to use, practice or have practiced a Subject Invention, Subject Software, or Subject Data throughout the world by or on behalf of the U.S. Government.

1.12 "Product" means anything that would infringe upon any of the inventions made.

1.13 "Final Products" means any product produced for sale by COMPANY or any other duly authorized third party which embodies Subject Data, Subject Software or Subject Inventions as defined in 1.7 to 1.10 above or Government owned patent(s) which are licensed to COMPANY by the Government.

## **Article 2. Cooperative Research**

2.1 Statement of Work. Cooperative research performed under this AGREEMENT shall be performed in accordance with the Statement of Work (SOW) attached hereto as Appendix A. An estimate of the parties' resources to be devoted to this effort is attached as Appendix B. Each party agrees to participate in the cooperative research and to utilize such personnel, resources, facilities, equipment, skills, know-how, and information, as it considers necessary, consistent with its own policies, missions and requirements. While assigned to this effort, employees of both parties shall remain employees of their respective employers.

2.2 Review of Work. Periodic conferences shall be held between ARDEC and COMPANY to review the progress of work. It is understood that the nature of this cooperative research is such that completion within the period of performance specified, or within the limits of financial support allocated, cannot be guaranteed. Accordingly, it is agreed that all cooperative research is to be performed on a best efforts basis.

2.3 Principal Investigation. ARDEC agrees that its portion of the work will be performed under the supervision of \_\_\_\_\_ *name, phone, email address* \_\_\_\_\_ as principal investigator, who has the responsibility for the scientific and technical conduct of this project at ARDEC. The principal investigator for COMPANY is \_\_\_\_\_ *name, phone, email address* \_\_\_\_\_, who has the responsibility for the scientific and technical conduct of this project at COMPANY.

2.4 Scope Change. Each party may request changes to the SOW, which shall be made in writing and agreed by both parties. Both parties agree to make a good faith effort to agree on any necessary change to the SOW.

## **Article 3. Reports**

3.1 Final Report. Within thirty days after the completion of work under this AGREEMENT, ARDEC and COMPANY shall together prepare a final written report on the technical progress made and the results obtained, identifying such problems as may have been encountered, and establishing goals and objectives requiring further effort. A final written report must be

submitted prior to extending the period of effort beyond the agreed upon initial AGREEMENT duration. This report will describe accomplishments made during the initial AGREEMENT period of performance.

3.2 Interim Reports. If, however, the work under this AGREEMENT extends beyond one year from the date of this AGREEMENT, ARDEC and COMPANY shall prepare annual interim reports describing the technical progress made, identifying such problems as may have been encountered, and establishing goals and objectives requiring further effort. The ultimate responsibility for timely completion of said reports shall be ARDEC's principal investigator.

#### **Article 4. Financial Obligation**

4.1 No Cost Option. The performance of research by ARDEC under this AGREEMENT is not conditioned on the payment of a sum certain by the COMPANY.

--OR--

4.1 Payment Option. Prior to beginning work under this AGREEMENT, ARDEC and COMPANY will agree to a predetermined estimated cost of ARDEC's effort for the first <30-60-90> day period of that effort. COMPANY will pay that agreed upon amount prior to the start of any work under this AGREEMENT. Thereafter, COMPANY will maintain a <30-60-90> day advance of funds equal to the predetermined estimated cost of ARDEC's effort for any subsequent <30-60-90> day period.

4.2 Payment. Payments shall be made by check, made payable to Defense Finance Accounting Office. Payments shall include a note referencing this CRADA (Appendix C) and the office symbol, cost center, and person to contact of the ARDEC organization to receive the funds Mail or hand deliver payments, as described above, to:

U.S. Army ARDEC  
Managerial Accounting Office  
ATTN: RDAR-FMA (Catherine Croft)  
Building #1, 3rd Floor  
Picatinny Arsenal, NJ 07806-5000

4.3 Insufficient and Excess Funds. ARDEC shall not be required to continue its research and development activities under this AGREEMENT if the funds provided by COMPANY are insufficient to cover ARDEC's full cost for such continued activities. If ARDEC determines that funds provided by COMPANY are insufficient, ARDEC will so notify COMPANY prior to cessation of ARDEC's research and development activities so that appropriate funding adjustments can be made. Funds not expended by ARDEC shall be returned to COMPANY upon ARDEC's submission of a final fiscal report to COMPANY.

4.4 Accounting Records. ARDEC shall maintain separate and distinct current accounts, records, and other evidence supporting all its expenditures under this AGREEMENT.

ARDEC shall provide COMPANY a final fiscal report with the final report as specified in paragraph 3.1.

## **Article 5. Title to Property**

5.1 Prior Equipment. Title to all equipment acquired prior to or during this AGREEMENT shall remain the property of the party, which purchased the same unless otherwise transferred, in writing.

5.2 New Equipment. Any Government Furnished Equipment (GFE) made available to COMPANY under this AGREEMENT shall remain the property of the government and be used solely for the performance of the effort contemplated by this AGREEMENT. COMPANY shall own co-developed equipment. Upon completion of research under this AGREEMENT, COMPANY shall be responsible for all costs attendant to the maintenance, removal, storage, and shipping of their equipment to COMPANY.

5.3 Disposal of Toxic or Other Waste. The responsibility for proper disposal for the duration of and at completion or termination of this AGREEMENT of any equipment or materials that an originating party transfers to the facilities of a receiving party and which constitute hazardous, toxic or other waste shall remain with the originating party.

OR

5.3 Identification of Toxic, Hazardous, and Other Waste. The parties shall, when generating toxic, hazardous, or other wastes during the course of the AGREEMENT, agree upon the expected type and quantity of such waste to be generated, the costs and availability of required disposal permits, and the cost of disposal. COMPANY agrees to pay to ARDEC, in advance, all such costs. Safety, security, and environmental issues shall be addressed as appropriate.

## **Article 6. Software**

6.1 Prior Software. The parties agree that all software, software databases and/or software documentation created prior to this AGREEMENT shall remain the property of the party, which owned or controlled such material prior to execution of this AGREEMENT.

6.2 The Parties have no expectation that any "Subject Software" will be created during the term of this AGREEMENT. If, however, any Subject Software is created during the performance of the AGREEMENT, title shall be held jointly, unless the parties otherwise agree, in which case a written modification to this AGREEMENT must evidence such accord.

--OR--

6.1 Prior Software. The parties agree that all software, software databases and/or software documentation created prior to this AGREEMENT shall remain the property of the party, which owned or controlled such material upon execution of this AGREEMENT.

6.2 COMPANY Employee Software. Title to any copyright in software written by COMPANY employees in the course of performance of this AGREEMENT shall be held by COMPANY. COMPANY agrees, however, to grant to the U.S. Government a Government License.

6.3 Joint Employee Software. Title to any copyright in software written jointly by COMPANY and ARDEC employees in the course of performance of this AGREEMENT shall be held by COMPANY. COMPANY agrees, however, to grant to the U.S. Government a Government License.

6.4 ARDEC Employee Software. Subject Software created by ARDEC employees in the course of performance of this AGREEMENT, is considered to be the property of ARDEC. ARDEC agrees to grant to COMPANY a non-exclusive, irrevocable, paid-up license to use said Subject Software however, subject to the following restrictions:

- a. COMPANY shall not copy said ARDEC employee software without the prior written approval of the ARDEC Director or his designee;
- b. COMPANY shall not distribute, license or sublicense said ARDEC employee software to third parties; and
- c. Upon written request, COMPANY may obtain additional copies of said ARDEC employee software.

6.5 Limits on Rights to Software. ARDEC does not own all software resident in its computers that may be used in the course of work under this AGREEMENT, and characteristically is the licensee of such software. Consequently, in such instances ARDEC will not provide software, or rights to software to COMPANY. ARDEC will only demonstrate the software on ARDEC computer systems. It will be the responsibility of COMPANY to obtain the appropriate hardware and software rights to run the Technology developed under this AGREEMENT.

--OR--

[If ARDEC desires to retain title to Subject Software and grant COMPANY an exclusive license, or if Subject Software is considered patentable, see Tim Ryan (x7953) or John Moran (x6590) for alternative Software provisions.]

## **Article 7. Inventions and Patents**

7.1 Prior Patents. The parties hereto agree that neither party shall have rights in any invention made by the other before the date of this AGREEMENT, except for those rights provided by law or under specific written agreement.



7.2 The Parties have no expectation that any “Subject Invention” will be made during the term of this AGREEMENT. If, however, any Subject Invention is made during the performance of the AGREEMENT, title shall be held jointly, unless the parties otherwise agree, in which case a written modification to this AGREEMENT must evidence such accord.

--OR--

7.2 Reporting. The parties shall promptly report to each other any Subject Invention made.

7.3 COMPANY Employee Inventions. The parties agree that COMPANY shall have the initial option to retain title to any Subject Invention made only by COMPANY employees. COMPANY shall promptly notify ARDEC upon making this election and in the event that COMPANY retains title to said Subject Invention, COMPANY agrees to timely file patent applications on such Subject Inventions at its own expense. COMPANY further agrees to grant to the U.S. Government a Government License. COMPANY agrees to prepare such a license in a form satisfactory to ARDEC. COMPANY may release the rights provided for by this paragraph to its employee inventors subject to an ARDEC Government License.

7.4 ARDEC Employee Inventions. The parties agree that ARDEC, on behalf of the U.S. Government shall have the initial option to retain title to each Subject Invention made only by its employees. ARDEC shall promptly notify COMPANY upon making this election, and in the event that ARDEC retains title to said Subject Inventions, ARDEC agrees to timely file patent applications thereon at its own expense, and agrees to grant to COMPANY a non-exclusive, irrevocable paid-up license to use, practice, or have practiced on its behalf such Subject Invention throughout the world. ARDEC may release the rights provided for by this paragraph to its employee inventors subject to a license in the COMPANY as described above. (See Exclusive License, 7.7)

7.5 Joint Employee Inventions. The parties agree that ARDEC, on behalf of the U.S. Government shall have the initial option to retain title to each Subject Invention Made jointly by COMPANY and ARDEC employees. ARDEC shall promptly notify COMPANY upon making this election and in the event that ARDEC informs COMPANY that it elects to retain title to such joint Subject Invention, COMPANY agrees to assign to ARDEC whatever right, title and interest COMPANY has in and to such joint Subject Invention. ARDEC agrees to timely file patent applications on such Subject Invention at its own expense and agrees to grant to COMPANY a non-exclusive, irrevocable paid-up license to use, practice, or have practiced on its behalf such Subject Invention throughout the world. (See Exclusive License, 7.7)

7.6 Filing of Patent Applications. The party having the right to retain title and file patent applications on a specific Subject Invention must elect to file patent applications thereon and advise the other party within 180 days from the date it reports the Subject Invention to the other party. In the event that the party fails to make such an election and so advise the other party within 180 days from the date it reports the Subject Invention, the other party may elect to file patent applications on such Subject Invention. If the other party elects to file patent applications, the party initially reporting such Subject Invention agrees to assign its rights, title and interest in

such Subject Invention to the other party and to cooperate with such other party in the preparation and filing of patent applications thereon. The assignment of the entire right, title and interest to the other party pursuant to this paragraph shall be subject to the retention by the party assigning title of a non-exclusive, irrevocable, paid-up license to use, practice, or have practiced on its behalf, the Subject Invention throughout the world. In the event neither of the parties to this AGREEMENT elect to file a patent application on Subject Invention, either or both (if a joint invention) may, at their sole discretion and subject to reasonable condition, release the right to file to the inventors subject to the retention of a non-exclusive irrevocable, royalty free, paid-up license to be held by COMPANY and ARDEC.

## 7.7 Exclusive License

7.7.1 Grants. ARDEC shall notify COMPANY of the filing date within 30 days of filing of a patent application. If requested by COMPANY within 6 months of such application, ARDEC may, on behalf of the Government, subject to applicable regulations and statutes, grant to COMPANY a limited term exclusive license in each U.S. patent application filed by ARDEC covering a Subject Invention, and patents issued thereon, subject to the Government retaining a Government License.

7.7.2 Exclusive License Terms. Upon filing of a patent application on a Subject Invention and receipt of a request by COMPANY, ARDEC may grant to COMPANY a limited term exclusive license in a Subject Invention upon rates, terms and conditions acceptable to ARDEC, including a ARDEC share in sublicensing royalties of no less than 33 percent, and the Government retaining a Government License.

7.7.3 If the parties cannot mutually agree upon reasonable license terms and conditions, ARDEC shall provide to COMPANY an irrevocable, non-exclusive, non-transferrable, royalty free, paid up license to practice such an invention.

7.7.4 Extension of Exclusive Licenses. Requests by COMPANY for extensions of a limited term exclusive license may be filed at any time prior to the expiration of the limited term exclusive license already in existence.

7.8 Patent Expenses. All expenses of the filing of patent applications shall be borne by the party filing the patent application. Each party shall provide the other party with copies of the patent applications it files on a Subject Invention along with the power to inspect and make copies of all documents retained in the official patent application files by the applicable patent office.

7.9 Maintenance Fees. The fees payable to the U.S. Patent and Trademark Office in order to maintain the patent's enforcement will be payable by the owner of the patent, at that party's option. In the event that ARDEC is the owner of the patent and COMPANY holds an exclusive license in said patent, COMPANY shall pay all maintenance fees for said patent. If COMPANY elects not to pay the maintenance fee, COMPANY must relinquish their exclusive license rights in said patent and must give ARDEC reasonable notification so as to permit ARDEC the option

of paying said fee. In the event that COMPANY elects not to pay the maintenance fee and ARDEC elects to exercise its option to pay said fee, COMPANY will retain a non-exclusive, irrevocable paid-up license in said patent.

## **Article 8. Data and Publication**

8.1 The parties agree that rights in data created prior to this AGREEMENT shall remain with the party creating such data.

8.2 The Parties have no expectation that any "Subject Data" will be created during the term of this AGREEMENT. If, however, any Subject Data is created during the performance of the AGREEMENT, title shall be held jointly, unless the parties otherwise agree, in which case a written modification to this AGREEMENT must evidence such accord.

--OR--

8.2 Right of Access. ARDEC and COMPANY agree to promptly exchange all Subject Data produced in the course of research under this AGREEMENT, whether developed solely by ARDEC, jointly, or solely by COMPANY. Subject to the provisions of paragraph 8.3, all Subject Data created under this AGREEMENT shall be the property of Company, subject however to an ARDEC Government License.

### **8.3 Proprietary Information.**

(i) If proprietary data will be provided by the COMPANY to ARDEC during the course of this AGREEMENT, COMPANY shall place the phrase "COMPANY Proprietary" on each page of information developed prior to or independent of this AGREEMENT. ARDEC agrees that any such marked Proprietary Information furnished by COMPANY to ARDEC under this AGREEMENT, or in contemplation of this AGREEMENT, shall be used by ARDEC only for the purpose of carrying out this AGREEMENT. Such marked Proprietary Information shall not be disclosed, copied, reproduced or otherwise made available outside the Government in any form whatsoever without the consent of COMPANY for five years from receipt by the Government except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S. C. 552). ARDEC agrees to use best efforts to protect from unauthorized disclosure said information designated and marked as proprietary.

(ii) For a period of up to five (5) years after creation of Subject Data that would be a trade secret, commercial and/or financial information that would be privileged or confidential if the information had been obtained solely from a non-Federal party, ARDEC may provide appropriate protection against the dissemination of such information, including exemption from Subchapter II of Chapter 5 of Title 5. (See 15 U.S.C. 3710a(c) (7) (B)) Such protection will be provided upon written request by COMPANY provided that the information has not entered the public domain. ARDEC does, however, retain a Government License in such data.

(iii) If ARDEC provides either proprietary data or Nonreleasable ARDEC information to COMPANY during the course of this AGREEMENT, ARDEC may place the phrase "ARDEC Proprietary" or "Nonreleasable ARDEC Information" as appropriate on each page of information developed prior to or independent of this AGREEMENT and plainly mark the data considered proprietary or nonreleasable. COMPANY agrees that any such marked Proprietary Information or Nonreleasable ARDEC Information furnished by ARDEC to COMPANY under this AGREEMENT, or in contemplation of this AGREEMENT, shall be used by COMPANY only for the purpose of carrying out this AGREEMENT. Such marked Proprietary Information or Nonreleasable ARDEC Information shall not be disclosed, copied, reproduced or otherwise made available outside COMPANY in any form whatsoever without the prior written consent of ARDEC unless COMPANY is required to do so by court directive, law or regulation otherwise, provided that COMPANY shall notify ARDEC of any such court directive, law or regulation and provide ARDEC the opportunity to, at its own expense, intervene and fight such directive to prohibit such mandated disclosure.

#### 8.4 Release Restrictions.

(i) ARDEC in reporting on the results of sponsored research may publish Subject Data in technical articles and other documents to the extent it determines to be appropriate, subject to the restrictions in paragraph 8.2 and 8.5; and

(ii) ARDEC may release such Subject Data, subject to 8.2 above, where such release is required pursuant to a request under the Freedom of Information Act (5 U.S.C. 552); except that such data will not be released to the public if a patent application is to be filed (35 U.S.C. Section 205) until the party having the right to file has had a reasonable time to file. Neither party shall make any disclosure, which may adversely affect the other party's rights in such data.

8.5 Publication. ARDEC and COMPANY agree that both parties shall have the right to publish Subject Data but not COMPANY or ARDEC proprietary or ARDEC Nonreleasable Information in either a report and/or in the open literature with reasonable notice and consultation of the other party. Any such publication will be co-authored as appropriate by both parties with the decision concerning the principal author dependent upon the content of the proposed publication. Any such publication(s) will require reasonable notice to and consultation among the parties prior to the publication of Subject Data in order to jointly assure that no Proprietary Information or ARDEC Nonreleasable Information is released and that ample opportunity to file patent applications in a timely manner is available.

8.6 Both parties agree that neither shall have the right to publish COMPANY or ARDEC proprietary or ARDEC Nonreleasable Information Subject Data in either a report and/or in the open literature without the written consent of the other party's Principal Investigator.

### **Article 9. Representations and Warranties**

9.1 Representations and Warranties of ARDEC. ARDEC hereby represents and warrants to COMPANY as follows:

9.1.1 Organization. ARDEC is a Federal laboratory of the United States Army and is an Agency of the Government of the United States.

9.1.2 Mission. The performance of the activities specified by this AGREEMENT are consistent with the mission of ARDEC.

9.1.3 Statutory Compliance. Reviews and approvals required by regulations or law have been obtained by ARDEC prior to the execution of this AGREEMENT and the ARDEC official executing this AGREEMENT has the requisite authority to do so.

9.2 Representations and Warranties of COMPANY. COMPANY hereby represents and warrants to ARDEC as follows:

9.2.1 Corporate Organization. COMPANY, as of the date hereof, is a corporation duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_.

9.2.2 Due Authorization. COMPANY has taken all actions required to be taken by law, its Certificate or Articles of Incorporation, its bylaws or otherwise, to authorize the execution and delivery of this AGREEMENT.

9.2.3 No Violation. The execution and delivery of this AGREEMENT does not contravene any material provision of, or constitute a material default under any material agreement binding on COMPANY or any valid order of any court, or any regulatory agency or other body having authority to which COMPANY is subject.

## **Article 10. Termination**

10.1 Termination. The parties may elect to terminate this AGREEMENT or portions thereof by mutual consent or by unilateral action at any time by giving the other party written notice, not less than 30 days prior to the desired termination date. In such event, the parties will take all actions necessary to promptly settle any post-termination matters.

## **Article 11. Disputes**

11.1 Settlement. COMPANY and ARDEC recognize that disputes arising under this AGREEMENT are best resolved at the local working level by the parties directly involved. Any dispute arising under this AGREEMENT which is not disposed of by agreement of the parties at the working level shall be submitted jointly to the then head of the ARDEC or his designee and the head of COMPANY or his designee for resolution.

## **Article 12. Liability**

12.1 Property. COMPANY will be responsible for damage to ARDEC equipment and facilities by COMPANY employees, agents, and/or business invitees.

12.2 Sponsor's Employees. COMPANY agrees to indemnify and hold harmless the U.S. Government for any loss, claim, damage, or liability of any kind due to an employee of COMPANY arising in connection with this AGREEMENT, except to the extent that such loss, claim, damage or liability arises from the negligence of ARDEC or its employees, as specified in the provisions of the Federal Tort Claims Act.

12.3 No Warranty. Except as specifically stated in Article 9, ARDEC and COMPANY make no express or implied warranty as to any matter whatsoever, including the conditions of the research or any invention or product or data exchanged, whether tangible or intangible, without limitation, made, or developed under this AGREEMENT, or the ownership, merchantability, or fitness for a particular purpose of the research or any invention or product. A clause to this effect shall be included in any reports generated under this AGREEMENT.

12.4 Force Majeure. Neither party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such party, which causes such party to be unable to perform its obligations under this AGREEMENT and which it has been unable to overcome by the exercise of due diligence. In the event of the occurrence of such force majeure event, the party unable to perform shall promptly notify the other party and shall use its best efforts to resume performance as quickly as possible

12.5 Indemnification. COMPANY holds the U.S. Government harmless and indemnifies the Government for all liabilities, demands, damages, expenses and losses arising out of the use by COMPANY, or any party acting on its behalf or under its authorization, of ARDEC's research and technical developments or out of any use, sale or other disposition by COMPANY, or others acting on its behalf or with its authorization, of products made by the use of ARDEC's technical developments. This provision shall survive termination of this AGREEMENT.

### **Article 13. Miscellaneous**

13.1 No Benefits. No member of, or delegate to the United States Congress, or resident commissioner, shall be admitted to any share or part of this AGREEMENT, nor to any benefit that may arise therefrom; but this provision shall not be construed to extend to this AGREEMENT if made with a corporation for its general benefit.

13.2 Governing Law. The construction, validity, performance and effect of this AGREEMENT for all purposes shall be governed by the laws applicable to the Government of the United States.

13.3 Entire Agreement. This AGREEMENT constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any prior understanding or written or oral agreement relative to said matter.

13.4 Waivers. None of the provisions of this AGREEMENT shall be considered waived by any party hereto unless such waiver is given in writing to all other parties.

13.5 Severability. The illegality or invalidity of any provisions of this AGREEMENT shall not impair, affect or invalidate the other provisions of this AGREEMENT.

13.6 Amendments. Any modification to this AGREEMENT shall be in writing, signed by all parties hereto, and approved as appropriate.

13.7 Assignment. Neither this AGREEMENT nor any rights or obligations of any party hereunder shall be assigned or otherwise transferred by COMPANY without the prior written consent of ARDEC, which shall not be unreasonably withheld.

13.8 Notices. All notices pertaining to or required by this AGREEMENT shall be in writing, signed by an authorized representative and shall be delivered as follows:

If to COMPANY:

Name  
Address  
Address  
Telephone:  
E-Mail:

If to ARDEC:

U.S. Army Armament Research, Development and Engineering Center  
ATTN: RDAR-EIB (T. Ryan)  
Picatinny, NJ 07806-5000  
Telephone: (973) 724-7953  
E-Mail: [timothy.s.ryan@us.army.mil](mailto:timothy.s.ryan@us.army.mil)

Any party may change such address by notice given to the other party in the same manner.

13.9 Independent Contractors. Neither party shall be an agent of the other, both being independent contractors.

13.10 Use of Name or Endorsements. Use of the other party's name or its employees' names in any medium, including press releases, which refers to work under this CRADA or the existence of this CRADA requires the prior written consent of the party and any person named. By entering into this CRADA, neither party directly or indirectly endorses any product or service provided or to be provided by the other party, its successors, assignees, or licensees.

13.11 Compliance with Export Control. This AGREEMENT is subject to United States laws and regulation controlling the export of technical data; computer software, laboratory prototypes and all other export controlled commodities. These laws include, but are not limited to the Arms Export Control Act and Export Administration Act as they may be amended. All rights granted by this AGREEMENT are contingent upon compliance with these laws and regulations. COMPANY shall not, directly or indirectly, export any export controlled commodities, which are subject to this AGREEMENT, unless the required authorization and/or license is obtained from

the required government agency(ies) prior to export. COMPANY shall notify ARDEC in writing 30 days prior to of its intent to obtain an export license for technologies and/or equipment resulting under this AGREEMENT. By granting rights in this AGREEMENT, ARDEC does not represent that export authorization or an export license will not be necessary or that such authorization or export license will be granted.

13.12 Manufacture. The parties agree that a purpose of this Agreement is to provide substantial benefit to the U.S. economy. To the extent feasible, the parties agree to exercise reasonable efforts to manufacture substantially in the United States products embodying intellectual property developed under this Agreement.

13.13 Classified Data: The Cooperative Work may cover classified national security information and unclassified Military Critical Technology (MCT). All personnel, government and non-government, working with classified material must have an appropriate security clearance and need to know. Any exchange of classified data with industry shall comply with the National Industrial Security Program Operating Manual, DoD 5200.22-M (February 2006) and the DD-254, DoD Contract Security Classification Specification provided as a separate removable attachment to this CRADA. The COMPANY must also be certified by the Joint Certification Program (JCP) to receive MCT and technical data governed by DoD Directive 5230.25. This data must be controlled in accordance with the International Trade in Arms Regulations (ITAR).

#### **Article 14. Duration of Agreement and Effective Date**

14.1 Duration of Agreement. In no case will this AGREEMENT extend beyond 3 YEAR(S) from the date of this AGREEMENT, unless it is revised in accordance with Article 13 of this AGREEMENT. The provisions of Article 3 - "Reports"; Article 5 - "Title to Property"; Article 6 - "Software"; Article 7 - "Inventions and Patents"; Article 8 - "Data and Publications"; Article 12.5 - "Indemnification"; and Article 13.10 - "Use of Name or Endorsements" shall survive the termination of this AGREEMENT.

14.2 Effective Date. The effective date of this AGREEMENT shall be the latest date of execution below.



**IN WITNESS WHEREOF:** the parties have caused this AGREEMENT to be executed by their duly authorized representative as follows:

**FOR COMPANY:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature)

Name: *(Type in)*

Title: *(Type in)*

Address: *(Type in)*

I, \_\_\_\_\_ certify that I am the  
\_\_\_\_\_ of COMPANY named above who signed this AGREEMENT  
on behalf of said COMPANY, and that this AGREEMENT was duly signed for and on behalf of  
said COMPANY by authority of its governing body and is within the scope of Corporate powers.

Witness this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness (date)

**For U.S. ARMY ARMAMENT RESEARCH, DEVELOPMENT AND ENGINEERING  
CENTER:**

By: \_\_\_\_\_ Date: \_\_\_\_\_

Gerardo J. Melendez  
Director  
U.S. Army Armament Research, Development and Engineering Center  
ATTN: RDAR-D  
Picatinny, New Jersey 07806-5000

\*\*\*\*\*

**Appendix A**  
**STATEMENT OF WORK**  
**TITLE**

**1. BACKGROUND:**

*Briefly describe the military application/civilian application and importance of this research collaboration. What are the strengths that ARDEC brings to this CRADA? What are the strengths that the COMPANY brings to this CRADA?*

*Benefits to the Party –*

*Benefits to ARDEC -*

**2. PRINCIPAL INVESTIGATORS:**

Company Contact

Company Contact Title

Company Contact Complete Address

Company Contact Phone Number

Company Contact Email

Company Financial Contact Name, Phone Number and Email

(ARDEC) Name

Principal Investigator

Principal Investigator's Phone Number

Principal Investigator's Email:

Principal Investigator's Financial Analyst Name and Phone Number:

**3. OBJECTIVE:**

a, Through cooperative research and development, the parties intend to (describe the objectives of the effort).

b. Duration:

**4. APPROACH:**

**5. DESCRIPTION OF WORK:** (Describe the major tasks, responsibilities, and milestones for each party.)

- a. ARDEC
- b. COMPANY
- c. ARDEC and COMPANY jointly will
- c. SCHEDULE

**6. OTHER CONSIDERATIONS:**

a. Describe specific equipment, safety, environmental, intellectual property or other special considerations of this SOW.

**b. Attach appropriate checklists here.**

**7. FUNDING SUMMARY:**

\*\*\*\*\*

**Appendix B**  
**RESOURCE ESTIMATE OF THE PARTIES**  
**TITLE**

Describe the technological expertise, facilities, equipment, funds, software, intellectual property, and other resources each party expects to contribute to the collaborative effort.

COMPANY will provide:

ARDEC will provide:

\*\*\*\*\*

**SPECIAL NOTE:**  
**THIS FORM MUST ACCOMPANY EVERY PAYMENT CHECK, INITIAL AND INCREMENTAL, AND BE FILLED IN COMPLETELY IN ORDER FOR THE MONEY TO BE APPLIED AGAINST THE APPROPRIATE CRADA AND/OR CRADA ANNEX. CHECKS NOT ACCOMPANIED BY THIS MEMORANDUM WILL BE RETURNED TO THE SENDER.**

**Appendix C**  
**CRADA PAYMENT ATTACHMENT**

Date: \_\_\_\_\_

**MEMORANDUM FOR:**

U.S. Army ARDEC  
Managerial Accounting Office  
ATTN: RDAR-FMA (Catherine Croft)  
Building #93, 3rd Floor  
Picatinny Arsenal, NJ 07806-5000

**FROM:** Company: \_\_\_\_\_

Street: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Company POC: \_\_\_\_\_

Company POC Phone Number: \_\_\_\_\_

**REFERENCE:** CRADA entitled \_\_\_\_\_

ARDEC POC Name: \_\_\_\_\_

ARDEC POC Phone Number: \_\_\_\_\_

1. Is this the Initial Funding? ..... Yes \_\_\_\_\_ No \_\_\_\_\_

2. Is this an Incremental Increase to existing Project? Yes \_\_\_\_\_ No \_\_\_\_\_

3. Is this a Master CRADA? ..... Yes \_\_\_\_\_ No \_\_\_\_\_

4. If this is an Annex to a Master CRADA, what is the Annex Number: \_\_\_\_\_

What is the Annex Title: \_\_\_\_\_

5. TOTAL AMOUNT OF CHECK: \$ \_\_\_\_\_

6. Additional Clarifying Remarks (if appropriate):

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title/Authority)

\_\_\_\_\_  
(Commercial Phone Number)

**THIS FORM MUST ACCOMPANY EVERY PAYMENT CHECK**  
**POC for this form is Tim Ryan, 973-724-7953**